

In Re: G.S. Paramarth and anr.

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Court : Chennai

Decided On : Jan-19-1942

Reported in : AIR1942Mad439; (1942)1MLJ380

Appellant : In Re: G.S. Paramarth and anr.

Judgement :

ORDER

Horwill, J.

1. The two petitioners were convicted by the Third Presidency Magistrate, Egmore, Madras, for an offence punishable under Rule 58 (2) of the Defence of India Rules, by engaging in exercises, movements, and drill of a military nature.

2. The first petitioner is the organiser of the Rashtriya Swayam. Sevak Sangh and the second petitioner is an. Instructor. This organisation has a membership of about 200 and they drill every Sunday morning on the grounds in front of the Royal Theatre. On 17th August, 1941, the Police found about 150 members gathered there ; and P-W. 1 and other Police officers watched their evolutions for some time. They lined up in formations, saluted an orange flag, which is said to represent Hinduism, and in saluting it they performed certain evolutions with the lathis which they were holding in their hands. Some drill then took place, they divided into squads, and then two squads of four, each began to exercise with lathis. There were sixty-seven other persons armed with lathis; but they laid them,

on the ground while the Police Were watching and performed certain movements with their body and arms to try to satisfy the Police that what they were doing was, as the petitioners say, with the object of exercising their bodies in the interests of their health rather than to perform exercises which might afford training for action by force against other communities and persons.

3. It is difficult to say what 'exercise, movement, evolution, or drill' is not of a military nature. A thing is said to be of a military nature when it resembles something done by or appertaining to or belonging to soldiers; so that if any exercise, movement, evolution, or drill is of the same kind as is done by soldiers under training, or during the course of their ordinary drill, then that exercise, movement, evolution, or drill could be said to be of a military nature. The object of the evolutions performed by the accused and their men was clearly to enable a large body of men to respond immediately to, a word of command so that it would be possible for one man in charge of a large body of persons to make them execute Ms will without the need of any elaborate explanations or directions. The exercises further made them alert and readily responsive to orders. The fact that 75 persons were armed with lathis cannot be ignored. It is true that even hi ordinary physical exercises sticks are sometimes used; but the lathis held by the petitioners and their men were about 4 to 6 feet long and were formidable weapons if used by trained men. I therefore have no doubt that the appellants did infringe Rule 58 (1) of the Defence of India Rules.

4. The Police officers, P-Ws. 1 and 2, say that the petitioners were warned on more than one occasion that they were doing something which was illegal; but I do not think that the fact that the petitioners disregarded those warnings necessarily means that they intended to deliberately flout the law. It is not easy to say what may be done and what may not be done under the Defence of India Rules, and any intelligent person is as much entitled to his opinion in regard to what is and what is not military drill as the Sub-Inspector. It seems desirable that the Madras Government should follow the example of the Bombay Government in stating more explicitly what they will permit to be done and what they will not. The expression 'exercise, movement, evolution, or drill of a military nature' is so wide in its scope that a person clicking his heels and making a smart salute might well be

guilty of an infringement of the Defence of India Rules and make himself liable to a punishment up to 5 years' rigorous imprisonment.

5. The petitioners have told the Police--and they seem to have told the Magistrate also--that they had no desire of infringing the law and that if it were found that they had infringed the law, they were prepared to give up their physical exercises and to abstain from them in future. Under these circumstances, it will be sufficient in the interests of justice if the petitioners are called upon to pay a small fine of Rs. 20 each. The balance of the fines paid should be refunded.

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